

DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
("Council")
Respecting
HUY (MATT) QUANG VUONG
("Former Licensee")

INTRODUCTION

The Life Insurance Council of Manitoba (Council) derives its authority from *The Insurance Act C.C.S.M. c. 140* (the "Act") and the *Insurance Councils Regulation 227/91*.

In response to information received by Council, an investigation was conducted pursuant to sections 375(1) and 396.1(7)(e) of the *Act* and section 7(2)(e) of *Regulation 227/91*. The purpose of the investigation was to determine whether the Former Licensee violated the *Act*, its Regulations and/or the Life Insurance and Accident and Sickness Agent's Code of Conduct (the "Code").

During the investigation, the Former Licensee was notified of Council's concerns and was given an opportunity to make submissions.

On February 7, 2024, during a meeting of Council, the information and evidence compiled during the investigation was presented and reviewed. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council hereby renders its Decision and corresponding reasons as set out below.

ISSUES

1. By transferring consumer's assets without their verbal or written authorization, did the Former Licensee violate ss. 375(1)(a) Misrepresentation, fraud, deceit or dishonesty, 375(1)(b) Has violated any provision of this *Act* or any rule or regulation under this *Act*, 375(1)(e) Has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the *Act*, and/or ss. 1 (Interests of the Client), 2 (Needs of the Client), 3 (Legitimate Business Interests), 4 (Professionalism), 6 (Conflict of Interest) and 7 (General Information Disclosure and Documentation), of the *Code*?

2. By making false notes on the Insurer's system which indicated that client authorization had been obtained, did the Former Licensee violate ss. 375(1)(a) Misrepresentation, fraud, deceit or dishonesty, 375(1)(b) Has violated any provision of this *Act* or any rule or regulation under this *Act*, 375(1)(e) Has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the *Act*, and/or section 4 (Professionalism), of the *Code*?
3. By not providing advice and allowing the consumer an opportunity to seek other professional advice if they so desired, did the Former Licensee violate ss. 375(1)(a) Misrepresentation, fraud, deceit, or dishonesty, 375(1)(b) Has violated any provision of this *Act* or any rule or regulation under this *Act*, and 375(1)(e) Has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the *Act*, and/or ss. 1 (Interests of the Client), 2 (Needs of the Client), 4 (Professionalism) and 6 (Conflicts of Interest), of the *Code*?
4. By failing to inform the client(s) of all product information prior to transferring the funds, did the Former Licensee violate ss. 375(1)(a) Misrepresentation, fraud, deceit or dishonesty, 375(1)(b) Has violated any provision of this *Act* or any rule or regulation under this *Act*, 375(1)(e) Has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the *Act*, and/or ss. 1 (Interests of the Client), 2 (Needs of the Client), 4 (Professionalism) and 7 (General Information Disclosure and Documentation), of the *Code*?

FACTS AND EVIDENCE

1. In Manitoba, the Former Licensee held Life and Accident & Sickness ("A&S") licences from September 11, 2017 to May 31, 2019. From February 20, 2020 to March 14, 2023, the Former Licensee held Life and A&S licences with the Insurer.
2. By email dated March 27, 2023, Council's Investigator received from the Insurer a Model Reporting Form (the "Reporting Form"), dated March 24, 2023. The Reporting Form indicated that the Former Licensee's agent contract had been terminated effective March 3, 2023, due to:
 - a. Acting without explicit client's instructions
 - b. Misrepresentation to Company
 - c. Trustworthiness

3. The Reporting Form indicated that additional information was attached in the Insurer's Market Conduct Summary (the "Summary"). The Summary, dated March 24, 2023, alleged that:
 - a. The Former Licensee processed 100 unauthorized transfers of plan member assets from the Group Retirement Employer Plan to the Insurer's Personal Plan.
 - b. For each of these transactions, the Former Licensee would have required either verbal consent from the client to move their funds following the reading of an enrolment disclaimer, or a signed form; neither were present in the client files for these transactions.
 - c. The Former Licensee was *"life licensed in ON, BC, AB, SK, MB, NS, NFLD."*
4. By email dated May 1, 2023, the Insurer confirmed to Council's Investigator that of the 100 unauthorized transfers completed by the Former Licensee, three (3) transfers were for Manitoba consumers.
5. By email dated December 13, 2023, the Insurer indicated to Council's Investigator that the Former Licensee received a total of \$72.63 in commissions for the three (3) unauthorized transfers, and that the commissions had not been reimbursed by the Former Licensee.
6. By email dated January 9, 2024, the Insurer confirmed to Council's Investigator that the Former Licensee did transfer three (3) client's funds without consent and placed false notes on the Insurer's system to facilitate the transfer and take credit for it.
7. By emails dated August 3, 2023, and January 25, 2024, the Former Licensee indicated to Council's Investigator that:
 - a. *"To maintain my position and to meet targets, I actioned leads that were more than 9 months old that were assigned to me and transitioned them from their group employer plan to the [Insurer's] Personal Plan without the members' consent... I had at least attempted to contact them more than 6-8 times via phone and email, which they did not get back to me at all."*
 - b. He chose the 3 Manitoba clients at random since they were unresponsive when he tried to reach them.
 - c. When questioned by Council's Investigator to explain why he put false notes on the Insurer's system, the Former Licensee indicated that it was necessary to write notes on the member's file as part of the sales process.

- d. The member's investments never left the Insurer as they were moved from one internal plan to another before he was able to obtain their verbal consent over the phone.
- e. *"The members were notified by regular mail and that is how they found out. They would contact us about these changes without their prior knowledge, and as a result, some chose to have their investments moved back..."*

ANALYSIS AND DETERMINATIONS

Section 375(1) of the Act states that:

If, after due investigation by the superintendent and after a discipline hearing, if a hearing is required under the regulations, the superintendent determines that the holder or former holder of an insurance agent licence

(a) has been guilty of misrepresentation, fraud, deceit or dishonesty;

(b) has violated any provision of this Act or any rule or regulation under this Act;

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(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted;

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the superintendent may take one or more of the actions set out in subsection (1.1).

Section 375(1.1) Disciplinary actions by the superintendent, of the Act states that:

For the purposes of subsection (1), the superintendent may do one or more of the following after giving a notice of decision in writing to the licence holder or former licence holder:

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(c) subject to the regulations, impose a fine on the licence holder or former licence holder and fix a date for the payment of the fine.

(d) subject to the regulations, require that the licence holder or former licence holder pay some or all of the costs of the investigation and, where applicable, of the hearing and fix a date for the payment of the costs assessed.

In accordance with ss. 1 (Interests of the Client), 2 (Needs of the Client), 3 (Legitimate Business Interests), 4 (Professionalism), 6 (Conflicts of Interest) and 7 (General Information Disclosure and Documentation), of the Code, an agent must carry on the business of insurance with honesty, integrity, and utmost good faith, putting the client's

needs ahead of the agents. An agent must ensure that the client is fully informed of all relevant information before the client makes a decision and is entitled to disclosure of the risks and benefits of the financial products being considered. This disclosure must be appropriately documented. An agent must avoid situations where the underlying circumstances could prejudice or compromise the advice he provides. This includes transferring funds for the purpose of hitting sales targets and obtaining commissions.

The Insurer had processes and procedures in place that verbal or written authorization was required prior to the transfer of client funds. The Former Licensee was aware of this requirement as he had indicated to Council's Investigator that he had moved the clients' funds before he was "*able to obtain their verbal consent over the phone per standard operating procedures.*"

Further, when the Former Licensee was asked to clarify why he placed false notes on the Insurer's system, he indicated that he needed to do this "*as part of the sales process.*"

By way of his own evidence, the Former Licensee stated that he was under tremendous pressure to meet quotas. Because of this pressure and trying to meet monthly quotas, he transferred the consumers assets without their consent.

Based on the information and evidence reviewed by Council, Council concluded that the Former Licensee violated ss. 375(1)(a) has been guilty of misrepresentation, fraud, deceit or dishonesty, 375(1)(b) has violated any provision of this Act or any rule or regulation under this Act, and 375(1)(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the *Act* and ss. 1 (Interests of the Client), 2 (Needs of the Client), 3 (Legitimate Business Interests), 4 (Professionalism), 6 (Conflicts of Interest) and 7 (General Information Disclosure and Documentation), of the *Code* and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision, dated July 15, 2024, was delivered to the Former Licensee by registered mail on July 30, 2024. The Decision outlined the foregoing background, analysis, and conclusion on a preliminary basis.

Having regard to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to section 375(1.1)(c) and (d) of the *Act* and section 7(1) of *Regulation 227/91*, Council hereby orders that:

1. The Former Licensee is to be fined \$1,500.00 and assessed investigation costs of \$1,687.50.

The Former Licensee must pay the fine and costs in full, including any interest payable, to be eligible to re-apply for a licence with the Insurance Council of Manitoba.

Pursuant to section 389.0.1(1) of the *Act*, the Former Licensee had the right to appeal this Decision within twenty-one (21) days of receipt. The Former Licensee was advised of this right in the Decision and was provided with the Notice of Appeal form, in accordance with section 389.0.1(2) of the *Act*. As an appeal was not requested in this matter, this Decision of Council is final.

In accordance with Council's determination that publication of its Decisions is in the public interest, this will occur, in accordance with sections 7.1(1) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 30th day of August, 2024.